G. R. S. IX-5]

Previous references. Revue

1917-18
(Courts)

Later references.

File No. 72-17

Serial Nos. 142

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 142

Part B for November 1917

SUBJECT.

Memorial of Channayya praying for the remission of the Sentence of death passed on him in Hassan Sessions Case No 7 of 1916-17

2) To the Registrar Chief Court
No J 1566 Dt 7-11-1917
Forwards Copy of order passed by H. H. the Maharaja on the prisoner's Memorial Rejecting etc.

W D 88—GPB—20000—24-7-16

Md Abdur Rahman
27. 11. 17 Khan

G. R. S. 11] 1917. 742

GENERAL AND REVENUE SECRETARIAT.

(Cants.)

NOTES.

File No. 72-17

FILE HEADING.

Memorial of Channayya praying for the remission of the sentence of death passed on him in Hassan Sessions Case no 7 of 1916-17.

From

The Registrar, Chief Court

No. 160	Dated 24/26. 9. 17.	Received 27. 9. 17
Diary No. 9742	Enclos. 2 vols 3 records Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Papers under disposal — Forwards the memorial with the records of the case.

NOTES AND ORDERS.

1)

Submitted

ASR 28/9

NK. Ecaraya a Siriachar aged about 40 years was a native of Jajur a village 2 miles from Arsikere on the 2nd March 1917, he went to his ragi field to keep

NOTES—First Sheet.

G. R. S. 12]

General and Revenue Secretariat.

C5 File No. 72 of 1917

Serial No.

watch over the corpse but was found dead on the next morning. An investigation was held and the accused and Halagas on the deceased were arrested. The latter was however tendered a pardon and made an approver. The accused pleaded guilty before the Committing Magistrate but retracted his confession in the Session Court. He was found guilty, convicted & Sentenced to death. The Chief Court have on appeal confirmed the conviction and Sentence.

2 The accused has presented this memorial denying the charge made against him.

3 The medical evidence is clear that death was due to the fracture of the base of the skull caused by criminal violence. There is clear unimpeachable testimony to prove criminal intimacy between the wife of the deceased and the accused, and the consequent ill will between the two. The fact that the knife belonging to the deceased, and the parcel were discovered on information supplied by the accused ~~is~~ and the circumstances attending this discovery as deposed by Ranga (PW11) are very significant. The evidence of the approver Halaga has been believed as ~~to~~ worthy of credit by both the Courts and it is fully corroborated by the circumstantial

NOTE—Contn. sheet.

GPB—65,000—'7-6-12.

G. R. S. 12]

General and Revenue Secretariat. | C5 File No. 72 of 1917

Serial No.

evidence in the case. The murder was a brutal one deliberately planned and carried out in the dead of night when the deceased was sleeping unsuspectingly in his Kama. There do not appear to be any good grounds for showing clemency in this case.

Submitted for orders

ES
7/10

Sd/ 4) Seked. to Case.

Sd/ 4) Maybe submitted for circulation

(Member)

CBB
3/10/17
ES
8/10

1397
4.10.17

5) Record. memorialist has suggested that while under the sentence of death he should be detained in the Cuttack Central Jail. The evidence of witnesses who were not called by the prosecution to be examined by the defence on the evidence of the prosecution witnesses. The finding of the 'Himmat i Kirpanche' both belonging to the deceased, in the possession of the accused is a circumstance which must be ~~[illegible]~~ of grave importance in the appeal. Beyond the memorial there is the finding of the Court should be accepted & the memorialist

NOTE—Contn. sheet.

GPB—6,000—7-6-12.

742

G. R. S. 12]

General and Revenue Secretariat. | cts File No. 72 of 1917-18

Serial No.

rejected as are not deserving of any clemency

4/10

Dewan)

2002
5/10/17

4/10

(3) I agree. Mercy petn. rejected by Govt. as recommended

8.10.17

(4) Implemented

8/10

8/10

(5) Engrossed.

11.10.17.

12/10/17

(6) Submitted with A D7N & D8N.

17/10

First Member). 13/10/17

(10) Office

16/10

(11) Fair final order signed before 1st member is posted up.

1483
15.10.17

15/10/17 12 D&N put up.

Dewan)

2270
19-10-17

NOTE—Contn. sheet.

GPB—6,000—7-6-12.

5

(For Disposal by Circulation)

No. C. 225.

9.10.1917.

GENERAL AND REVENUE SECRETARIAT.

COUNCIL MATTER.

SUBJECT.

(Clause vi of the Schedule)

13 Memorial of Channayya praying for the remission of the sentence of death passed on him in Hassan Sessions Case No.7 of 1916-17.

14 CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

C S Balasundaram
Secretary to Government.

6th October 1917.

Extraordinary Member of Council.

15 **First Member of Council.** Opinion recorded.

16 **Second Member of Council.** Paper 4 10.10

285 9.10.17

WD 2670—GPB—1,000—11-5-17

Final Note by the First Member of Council

Subject:— Memorial of Channayya praying for the remission of the sentence of death passed on him in Hassan Session Case No. 7 of 1916-17.

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(18) The facts of the case are briefly given in para 1 of the office notes.

B (19) 2. The accused memorialist confessed his guilt before
B the Committing Magistrate. No doubt he retracted his confession before the Session Judge, but the reaons assigned by him for the retraction are unconvincing and there is no tangible ground why it should not be acted upon. The evidence of Halaga, the approver, which has been corroborated by the evidence of some prosecution witnesses, clearly establishes his guilt. The finding of the ' himmani' and the 'panche' belonging to the deceased, on information given by the accused, is a circumstance which goes to prove beyond all reasonable doubt his complicity in the offence.

Papers under disposal (20) 3. The memorial may therefore be rejected as one not deserving any clemency. This has been agreed to by the Council.

Venkatasubba

15th Oct 1917

Submitted to His Highness.

I submit herewith a Final Note by the First Member of Council on the subject of the Memorial of Channayya praying for the remission of the sentence of death passed on him in Hassan Sessions Case No.7 of 1916-17, for His Highness' gracious approval.

K. Srinivasa Iyengar

Dewan.

20th Oct 1917.

762

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

25

Memorial of Channayya praying for the remission of the sentence of death passed on him in Hassan Sessions Case No.7 of 1916-17.

No.7097
20-10-17

469

23

Order.

~~KRW~~

29/10/17

24

30.10.17

25

1734
10.11.17

10/11

97.
10.11.17

742

WD 1283—GPB—60,000—1-12-16—S.

9

G. R. S. III-2]

General and Revenue Secretariat.	C5 File No. 72 of 1917.

	Serial No.	
	26.	Submitted with draft and fair of H.H's orders and also a draft of the Regr, Chief Court. A2C 2/11/17. In favour of Dewan's Signature EB 2/11 Secy Dewan) C8Y 2/11/17 Signed by Dewan. 5:11.17. Done EB 6/11
2417 5.11.17.		
	2	To The Registrar Chief Court No 1566 4th Nov: 1917 Forwards copy of order passed by H.H. the Maharaja on the Prisoner's Memorial rejecting it.

EB J
29/11/17

No 160 Enc: 2 with 3 records
Cr

Bangalore,

Dated 24th September 1917.
264

From

THE REGISTRAR OF THE
CHIEF COURT OF MYSORE.

To

THE SECRETARY TO GOVERNMENT,
GENERAL ~~AND REVENUE~~ DEPARTMENTS.

Sir,

I am directed to forward a memorial addressed to His Highness the Maharaja by Channayya .....accused in Hassan .....Sessions Case No. ---7------ of 1916-17.....on the file of the Sessions Judge of Mysore..... Division and appellant in Criminal Appeal No. ..4.. of 1917-18.....on the file of this Court. Criminal Referred Case No. 3 of 17-18

The entire record of the case is herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

GPB—1,000—16-8-12

1917-18

1917-18

2345

IN THE CHIEF COURT OF MYSORE AT BANGALORE

Friday, the 7th day of September 1917.

PRESENT

SIR LESLIE C. MILLER, KT., CHIEF JUDGE,

AND

MR. JUSTICE T. PARAMASIVA IYER.

Petition of criminal appeal No: 4 of 1917-18/ criminal referred case No: 3 of 1917-18 against the conviction and sentence by the Sessions Judge of the Mysore Division under section 302 of the Indian Penal Code in Hassan Sessions Case No: 7 of 1916-17.

Appellant

Channayya.

(Accused)

JUDGEMENT

The conviction is in our opinion right. There is no doubt that the deceased was murdered, and Mr. Narasimmiengar's principal endeavour has been to convince us that the approver witness Malaga is the murderer, and not the accused.

He points out that the approver had the stronger motive to get rid of the deceased because he would thereby obtain the property of the accused whereas the mere desire to give his property to Malaga is not likely to have led the accused to murder his cousin. He points out further that the murder could have been committed by Malaga alone, and that most of the corroborative evidence is only as to acts done by Malaga.

This

This is true to some extent but there is sufficient evidence pointing to the truth of Malaga's accusation against the appellant.

The evidence shews quite clearly that Malaga and his mother Malamma and the accused were anxious to transfer the property to Malaga who was to maintain the accused thereafter. There was not much property and doubtless the accused saw a better chance of a comfortable life if he could effect this arrangement, than he could expect as Basaviah's cattle tender. There is quite sufficient evidence to prove that he was intimate with Malamma and had been so for years, and that the deceased had taken a great dislike to him on this account, and refused to allow him to make the proposed arrangement with his son.

Therefore there is nothing improbable in the story of a conspiracy between the accused and Malaga to remove the deceased a conspiracy to which it is very likely Malamma also was a party.

It is true that the evidence of the cutting of the Manchige prop is evidence against Malaga himself rather than against the accused, and the statement of the boy Sivanna that the accused called his brother on the night of the murder from the house may be neglected in the absence of any explanation how the witness identified the person who knocked at the door in the night, but there is evidence that the accused shewed where the himmani bag taken from the deceased was hidden, and also the panche, and the accused pleaded guilty before the committing magistrate

The

The evidence as to the production of the panche and himmani bag is strong and we do not see any reason to doubt it: the confession is no doubt retracted in the sessions court but the only explanation offered by the accused there is that he had fever and cold and did not know what he told the magistrate, a distinctly unconvincing explanation.

There is thus quite sufficient corroboration of the evidence of Malaga, indeed even without his evidence there might perhaps have been enough to sustain the conviction: the story which he tells has nothing improbable in it and corroborated as it is, we think the Sessions Judge and the assessors were justified in convicting the accused of murder. The crime was deliberately planned and there is no ground for interference with the sentence of death. We confirm the conviction and the sentence and dismiss the appeal.

(Sd.) Leslie C. Miller

CHIEF JUDGE.

(Sd.) D. Parama Swamy

JUDGE.

True copy

S. Kumarasuriya Ranga Iyengar

Dy. Registrar

In the Matter of a Memorial

of Channayya praying for the remission of the sentence of death passed on him in Hassan Sessions Case No. 7 of 1916-17.

His Highness the Maharaja

directs

that the memorial be rejected.

Dewan. 5.11.17

(Draft) CSR

5/11/17

No. J 1566 Encl 17 Records
Cs 72-172

MYSORE GOVT. GEN. & REV. SECRETARIAT.

Dated, Bangalore 7/11/1917.

From

The Chief *Secretary to the Government of H. H. the Maharaja of Mysore.*

To

The Registrar of the Chief Court of Mysore.

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoner Channaya undergoing sentence of death in the Bangalore Central Jail, copy of order passed by H. H. the Maharaja of Mysore, on the prisoner's memorial rejecting it.

2. The entire records received with your letter No 160/Cr. dated 26th Sept 1917 are herewith returned.

I have the honor to be,
SIR,
Your most obedient servant,

for Chief *Secretary.*

Ans 2/11/17